

## § 20.26

of such debtor, including an opportunity for reconsideration of the determination concerning the debt, and including the accuracy, timeliness, relevance, and completeness of the information on which the debt is based.

(Approved by the Office of Management and Budget under control number 1225-0030)

### § 20.26 Request for waiver or administrative review.

(a) If the statute under which waiver or administrative review is sought is *mandatory*, that is, if it prohibits the agency from collecting the debt prior to the agency's consideration of the request for waiver or review (see *Califano v. Yamasaki*, 442 U.S. 682 (1979)), then collection action must be suspended until either

(1) The agency has considered the request for waiver/review, or

(2) The applicable time limit for making the waiver/review request, as prescribed in the agency's regulations, has expired and the debtor, upon proper notice, has not made such a request.

(b) If the applicable waiver/review statute is *permissive*, that is, if it does not require all requests for waiver/review to be considered, and if it does not prohibit collection action pending consideration of a waiver/review request (for example, 5 U.S.C. 5584), collection action may be suspended pending agency action on a waiver/review request based upon appropriate consideration, on a case-by-case basis, as to whether:

(1) There is a reasonable possibility that waiver will be granted, or that the debt (in whole or in part) will be found not owing from the debtor;

(2) The Government's interests would be protected, if suspension were granted, by reasonable assurance that the debt could be recovered if the debtor does not prevail; and

(3) Collection of the debt will cause undue hardship.

(c) If the applicable statutes and regulations would not authorize refund by the agency to the debtor of amounts collected prior to agency consideration of the debtor's waiver/review request in the event the agency acts favorably on it, collection action should ordinarily be suspended, without regard to the factors specified in paragraph (b) of this section, unless it appears clear,

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based on the request and the surrounding circumstances, that the request is frivolous and was made primarily to delay collection.

### § 20.27 Cooperation with other DOL agencies and Federal agencies.

(a) Appropriate use should be made of the cooperative efforts of other DOL agencies and Federal agencies in effecting collection by administrative offset. Generally, agencies should comply with requests from other agencies to initiate administrative offset to collect debts owed to the United States, unless the requesting agency has not complied with the applicable regulations or the request would otherwise be contrary to law or the best interests of the United States.

(b) Unless otherwise prohibited by law, a DOL agency may request that monies due and payable to a debtor by another DOL agency or a Federal agency outside the Department be administratively offset in order to collect debts owed the creditor DOL agency by the debtor. In requesting an administrative offset, the creditor DOL agency must provide the DOL agency or other Federal agency holding funds of the debtor with written certification stating

(1) That the debtor owes the creditor agency a debt (including the amount of debt); and

(2) That the creditor agency has complied with the applicable Federal Claims Collection Standards, including any hearing or review.

### § 20.28 DOL agency as organization holding funds of the debtor.

(a) Whenever a DOL agency is holding funds of a debtor from which administrative offset is sought by another DOL agency or other Federal agency, the DOL agency holding funds should not initiate the requested offset until it has been provided by the creditor organization with an appropriate written certification that the debtor owes a debt (including the amount) and that applicable provisions of the Federal Claims Collection Standards have been fully complied with.

(b) Moreover, the DOL agency holding funds of the debtor should determine whether collection by offset